



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: DECEMBER 15, 2022

IN THE MATTER OF:

Appeal Board No. 625362

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective May 6, 2021, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a hearing at which testimony was taken. There was an appearance by the claimant. By decision filed February 25, 2022 (), the Administrative Law Judge overruled the initial determination.

The Commissioner of Labor applied to the Appeal Board, pursuant to Labor Law § 620 (3), for a reopening and reconsideration of the Judge's decision. The Board considered the arguments contained in the written statement submitted on behalf of the Commissioner of Labor. Due deliberation having been had, the Board has reopened and reconsidered the decision of the Administrative Law Judge.

Our review of the record reveals that the case should be remanded to hold a hearing. The Commissioner of Labor has indicated that there is new evidence regarding the disposition of the criminal charges against the claimant. The Board has determined to provide the Commissioner of Labor an opportunity to submit this evidence. The Commission of Labor should be represented at the remand hearing and should produce the certificate of disposition, which shall be entered into evidence after the appropriate confrontation.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge is rescinded; and it is further

ORDERED, that the case is remanded to the Hearing Section to hold a hearing on the issue, upon due notice to all parties and their representatives; and it is further

ORDERED, that the Notice of Hearing shall direct the Commissioner of Labor to produce the certificate of disposition of the criminal charges against the claimant that arose from his arrest in May 2021 and led to his separation from employment; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER